

Ms. Kristan Barbour, Department of Revenue
Mr. Todd Olson, Department of Revenue Director's Office
PO Box 7701
Helena, Montana 59604-7701

October 29, 2021

Re: MAR 42-1033 Moratorium for New Laboratory Licenses

Dear Ms. Barbour and Mr. Olson:

We read with concern a proposed rule in MAR 42-1033 whereby new applications for marijuana testing laboratories will be accepted as of January 1, 2022. One of the explicit intentions of HB701 is to maintain in-state employment and investment in this nascent and tax-driven industry in part by postponing acceptance of new *dispensary* licenses until July 1, 2023, but HB701 does not contemplate *testing laboratory* license application dates. While MAR 42-1033 currently authorizes acceptance of applications for new laboratory licenses as early as January 1, 2022, we believe this is an oversight in HB701 and MAR 42-1033 and not the intention of the bill. As it stands, MAR 42-1033 leaves existing Montana marijuana testing laboratories vulnerable to aggressive out-of-state interests that are not in the long-term interests of Montanans. In order to avoid this scenario, we request that acceptance of new applications for marijuana testing laboratories be changed to no sooner than July 1, 2023 in order to be consistent the concessions allowed other current licensees.

Our reasons for this request are:

1. *Stillwater Laboratories Inc's Expansion Eliminates the Need for Additional Laboratories to Support Adult Use:* In order to continue supporting our providers through the anticipated expansion from adult use, Stillwater Labs has invested over \$1M over the last year, tripling testing capacity through acquisition of new analytical equipment, floor space, and trained personnel. Stillwater's new capacity will be sufficient to support Montana's expanding marijuana market and tax base.
2. *To Reduce the Susceptibility to Monopolistic Investment:* Similar to Montana provider apprehensions regarding the sustainability of their enterprises in the face of asymmetric out-of-state investment, our concern is that a new laboratory interest with substantial out-of-state funding could exercise predatory pricing that would force existing Montana laboratories out of the testing business. This would monopolize marijuana testing services, offering Montana providers little to no competitive price, service, and support protections. Resulting higher legal product costs would further embolden black market competition, thus reducing tax revenue.

3. To Maintain Support for the Montana Marijuana Program: Stillwater Labs has delivered world-class technical analytical services to the MMJ Program since 2017, with some 70,000 samples tested to the highest standards of accuracy, quality, fast turnaround, and integrity. We service the entire state from two laboratories and offer no-additional-cost pickup services to all providers regardless of location, whether they are a micro provider in Ashland or an industrial scale provider in Bozeman. We also pride ourselves on delivering these services at competitive and flat pricing (same pricing regardless of provider size), with modest profit margins well below that customary in other marijuana states. We have also spearheaded efforts to help providers maintain compliance through published guides and state-compliant labels, all supplied at no cost to the provider. We are concerned that this level of support for Montana's providers would not be maintained by out-of-state interests.
4. To Continue Benefits for All Montanans: Similar to many of Montana's marijuana dispensaries, since 2017 Stillwater Laboratories prides itself on being a fully self-funded Montana service. We currently employ 30 Montanans with education ranging from high school graduates to PhD chemists at sustainable compensation levels (starting wage \$20/h, payroll totaling 1.5M\$ pa plus full health benefits). We are also active members of the community with ongoing programs to assist foodbanks, charity drives, highway cleanup, local sports activities, and scholarships at MSU and UM. Out-of-state interests would not ensure that benefits of the program return to the citizens of Montana.

For these reasons, we suggest the following change to MAR 42-1033: New Rule VIII
MARIJUANA TESTING LABORATORY LICENSES:

“The Department shall begin accepting applications for and issuing new marijuana testing laboratory licenses to applicants who are not current medical marijuana licensees on or after July 1, 2023.”

Thank you for considering this change to MAR 42-1033. We look forward to your positive response to this matter.

Sincerely,



Ron Brost, PhD PE
Director
Stillwater Laboratories Inc.